IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

WP(C).No. 28299 of 2006(R)

PETITIONER:

KUMARANKUTTY MENON,
PROPRIETOR, SAKTHI ICE PLANT,
CHANGUVETTY, KOTTAKKAL,
MALAPPURAM DISTRICT.

BY ADV. SMT.JAYASREE MANOJ
SRI.ANIL XAVIER
SRI.M.RISHIKESH SHENOY

RESPONDENTS:
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1. **KERALA STATE ELECTRICITY BOARD,**
   REP. BY ITS SECRETARY,
   VYDYUTHI BHAVAN, THIRUVANANTHAPURAM.

2. **ASSISTANT ENGINEER,**
   ELECTRICAL SECTION, KERALA STATE ELECTRICITY BOARD
   KOTTAKKAL, MALAPPURAM DISTRICT.

3. **DEPUTY CHIEF ENGINEER,**
   ANTI POWER THEFT SQUAD,
   THIRUVANANTHAPURAM.

BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.28299/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE BILLS FOR THE PERIOD FROM 12.4.06 TO 15.9.06.

E.XT.P2:- COPY OF THE BILL BEARING NO.A65570000060 DT.13.9.06 FOR RS.70,289/-

EXT.P3:- COPY OF THE SITE MAHAZAR DT.1.9.06.

EXT.P4:- COPY OF THE COVERING LETTER DT.13.9.06 ISSUED BY THE 2ND RESPECT TO THE PETITIONER.

EXT.P5:- COPY OF THE ADDL.BILL BEARING NO.R6557027008 DT. 16.10.06.

EXT.P6:- COPY OF THE APPEAL PREFERRED BY THE PETITIONER BEFORE THE APPELLATE AUTHORITY.

EXT.P7:- COPY OF THE POSTAL RECEIPT DT.15.9.06 EVIDENCING THE SENDING OF THE APPEAL TO THE APPELLATE AUTHORITY.

EXT.P8:- COPY OF THE ORDER IN OP. NO.3/02 DT.21.11.02 OF THE COURT OF THE CONSUMER DISPUTES REDRESSAL FORUM, MALAPPURAM.

/TRUE COPY/

tss

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 28299 OF 2006-R

JUDGMENT

The petitioner, who is the proprietor of an industrial concern, challenges Ext.P2 bill, Ext.P3 site mahazar and Ext.P5 additional bill. He also prays for a direction to pay the amount due to him under Ext.P8. He has been paying the electricity bills regularly. While so, the Anti Power Theft Squad inspected the petitioner's industrial unit and it was found that one of the phases connected to the meter was not working, on account of accumulation of copper oxide in the wire connecting the meter. So, only two-third of the energy consumed was being recorded by the meter. Based on that finding, the impugned bills were issued. The petitioner submits, the site mahazar was not properly prepared and the finding therein is not correct. He was paying the bills properly and the present demand is unjustified.

2. The 2nd respondent has filed a statement, supporting the demand. The petitioner has filed a reply affidavit, denying the averments in the statement.

3. Heard the learned counsel on both sides. Against the disputed bills, the petitioner has got a right to represent before the 2nd respondent.

Thereafter, he has got a further right to move the Consumer Disputes Redressal Forum. If he is dissatisfied with the same, he can move the Ombudsman. In view of the hierarchy of authorities and the remedies available to the petitioner, it is unnecessary for this Court to adjudicate the dispute regarding a bill under Article 226 of the Constitution of India. Accordingly, the petitioner may move the 2nd respondent by filing his objections against the disputed bills within three weeks from today and pay one-third of the amount demanded. In that event, no further recovery shall be made from him till the matter is decided by the 2nd respondent. If the petitioner's contention is accepted by the 2nd respondent or the higher authorities, the amount paid by him shall be adjusted towards future bills or refunded to him. If Ext.P8 has become final, the amount due under the said order shall be repaid to the petitioner or adjusted towards the amount payable by him.

The Writ Petition is disposed of as above.

15th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/